

# Exhibit A

Magic West

Hadsell v. Mandarin Law Group, LLC

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

RICHARD A. HADSELL,

Plaintiff,

vs.

Case No.: 12-CV-0235-L-RBB

MANDARICH LAW GROUP, LLP, AND  
CACH, LLC,

Defendants.

~~~~~

Deposition of MAGIC WEST

September 26, 2012

San Diego, California

Reported by: Angie Schultz-Messenger, CSR No. 11742

Magic West

Hadsell v. Mandarich Law Group, LLC

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MANDARICH LAW GROUP, LLP, AND  
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Defendants.

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Deposition of MAGIC WEST, taken on behalf of  
Plaintiff, commencing on Wednesday, September 26,  
2012, at 10:00 a.m., taking place at 701 B Street,  
Suite 1115, San Diego, California , before  
Angie Schultz-Messenger, Certified Shorthand Reporter,  
certificate number 11742.

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APPEARANCES OF COUNSEL

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DEPOSITION OF MAGIC WEST

September 26, 2012

MAGIC WEST,

having been duly sworn, testified as follows:

EXAMINATION

BY MR. SWIGART:

Q. All right. Good morning, Mr. West. I know we've been introduced many times in the past. I believe you've given deposition in this case in the state-related matter, but if we could go through the drill. If you wouldn't mind stating your name.

A. Yes. It's Magic, M-a-g-i-c, last name is West, W-e-s-t.

Q. Okay. And I understand you're being produced here today on behalf of -- a corporate representative of CACH, LLC; is that correct, sir?

A. That is correct.

Q. Okay. Make sure I have the right deposition notice. Let me mark as Exhibit 1 what will be the deposition notice for CACH.

(Exhibit 1 was marked for identification.)

BY MR. SWIGART:

Q. If you want to take a look at that, sir.

You had an opportunity to review that?

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1 A. Yes, I did.

2 Q. Okay. Before we get into that, I know we've  
3 met each other and been involved in depositions many,  
4 many times and on many different cases. I assume we  
5 can dispel with the admonitions. You understand the  
6 procedure here today?

7 A. Yes.

8 Q. This is a federal case, but the procedure is  
9 basically the same as in state court. If you have any  
10 problems with the questions I ask, you can't  
11 understand them, I might think they're good questions,  
12 they may not be, just tell me to correct it or tell me  
13 you don't understand, and I'll rephrase it. Okay?

14 A. Not a problem.

15 Q. Any reason today you can't give your best  
16 testimony, lack of sleep, medications, something like  
17 that?

18 A. No.

19 Q. Okay. So Exhibit number 1 is a deposition  
20 notice in this case. You had an opportunity to review  
21 that. Is there any topics that you're not able to  
22 give testimony on?

23 A. No.

24 Q. Okay. Perfect. Let's just attach Exhibit  
25 number 2 collectively.

1 MR. SWIGART: I have another copy here for  
2 you, Nicole.

3 MS. STRICKLER: Great.

4 (Exhibit 2 was marked for identification.)

5 MR. SWIGART: Exhibit number 2 I will just  
6 mark collectively as all the documents that have been  
7 produced by the defendants, including CACH, in this  
8 case. I think they're Bates stamped. Let me just  
9 note for the record that I think around 80 something,  
10 maybe 82, 83, those documents are stamped  
11 confidential; so while I will attach them to the  
12 transcript, we'll go ahead and treat them -- I know we  
13 have a protective order that should be filed fairly  
14 soon, so I agree to keep those confidential entering  
15 the transcript, at least as of those portions and the  
16 testimony surrounding that as such. Okay?

17 All right. Let me get you a copy, Nicole, so you  
18 can follow along. There you go.

19 MS. STRICKLER: Thank you.

20 MR. SWIGART: You bet.

21 BY MR. SWIGART:

22 Q. All right. Now, I know you gave some  
23 testimony with regard to this case in the state case,  
24 so we can kind of truncate some of this. If we can  
25 just flip to the second page, on the bottom right-hand

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1 corner there's a number. I think your attorneys have  
2 Bates stamped that, starts with RH and a number. I'll  
3 probably just refer to the page number as we go  
4 through it. So this one would be 2. Do you see that?

5 A. Yes, I do.

6 Q. Okay. And my understanding is that pages --  
7 I guess we'll start with 3 through 6. That's a copy  
8 of the state court complaint that was filed.

9 A. Yes. It's what it appears to be.

10 Q. Okay. Perfect. So I might jump around a  
11 little bit. But if you need to reference some of the  
12 other documents are produced, fair enough. I'm not  
13 trying to trip you up here. Just trying to get a  
14 little bit more concrete understanding of what  
15 happened and when.

16 My understanding, the state court complaint was  
17 filed on behalf of CACH by its attorneys, Mandarin  
18 Law Group, on December 29, 2011.

19 A. That's my understanding as well.

20 Q. Okay. All right. So just going through the  
21 complaint kind of as a reference, I just had some  
22 questions. In paragraph 1, says that the original  
23 creditor is MBNA America, N.A. Do you see that, sir?

24 A. Yes, I do.

25 Q. Do you have any reason to believe that's



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1 correct?

2 A. Yes.

3 Q. Okay. What would your basis be to believe  
4 that the original creditor in the case is MBNA  
5 American N.A.?

6 A. MBNA merged into Bank of America and became  
7 FIA Card Services, and FIA Card Services is a wholly  
8 unsubsidiary of Bank of America, and that's who we do  
9 business with. That's where the chain of title for  
10 this account was sold from Bank of America/FIA to  
11 CACH.

12 Q. Okay. So if I understand your testimony  
13 correctly, CACH got this account that underlies the  
14 state court case from FIA?

15 A. Correct.

16 Q. Okay. And just so it's clear for the  
17 record, I know you and I both know the answer to this,  
18 CACH and FIA, totally different companies?

19 A. That's correct.

20 Q. You don't work for FIA?

21 A. No, I do not.

22 Q. Never worked for FIA?

23 A. Never.

24 Q. How about Bank of America, never worked for  
25 them?

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1 it's there, then that's when we review it.

2 Q. But based on your knowledge and experience  
3 and working at CACH for -- how many years was it  
4 again?

5 A. Almost five.

6 Q. Five years. You're familiar that in every  
7 account that you review there's at least a column that  
8 exists that would show when any statements were  
9 received, if there were any received on an account?

10 A. Yes. I just didn't commit it to memory, and  
11 I didn't write it down, so --

12 Q. Okay. Sure. And that -- would that seem --  
13 would that same line of questioning apply to the  
14 affidavit of sale, would there be a column that would  
15 indicate when it was received?

16 A. Yes, because there's a section that  
17 indicates what documentation has been requested, and  
18 it's a status. Status is usually just either  
19 requested, not available or received. And then when  
20 it's received, that's where the column for the actual  
21 date would fit.

22 Q. Okay. And would that apply also to the bill  
23 of sale?

24 A. I've never noticed it on the bill of sale.  
25 There might have been a date when it scanned into the

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1 system. But the bill of sale we get when we purchase  
2 the batch. That's not after the fact. That's at the  
3 time of the transaction between CACH and FIA Card  
4 Services/Bank of America, however you want to phrase  
5 it.

6 Q. Fair enough. And you got a -- use the  
7 word -- common vernacular -- some type of rolling  
8 production of these statements. Day one you -- maybe  
9 you get the first statement and somewhere down the  
10 line you get some more statements. Would there be  
11 some type of documented chronology as to when these  
12 periodic statements were received?

13 A. Again, going to that received column, you  
14 would see different dates, so you'd be able to pick it  
15 apart that way, that maybe three statements came in on  
16 such and such date, maybe another two statements came  
17 in couple weeks later. It's when we receive it. Then  
18 there's a little bit of a lag time as to when it's  
19 actually scanned into the system, again, because of  
20 the volume we're dealing with.

21 I'm looking at it at the back end of just  
22 reviewing the scanned documentation. So I can't tell  
23 you exactly how long that lag would be. My  
24 understanding is it's fairly quickly. But there can  
25 be -- when they scan it in is when it gets the

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1 received date, is populated.

2 Q. Fair enough. And again, I'm not trying to  
3 play hide the ball here. And I'll tell you precisely  
4 what I'm looking for. But looking through these  
5 documents, I did see exactly what you're testifying  
6 to. There's a bill of sale, loan schedule, affidavit  
7 on the account, some account statements.

8 But what I see missing -- and perhaps you can  
9 look through and maybe I'm missing it -- is the terms  
10 and conditions that related to the account. Would you  
11 mind looking through to see if I missed it or in fact  
12 it's not there.

13 A. Just double-checking, but I don't recall  
14 seeing that in the computer either when I reviewed the  
15 account. Yeah, I don't recall seeing it attached to  
16 this particular account.

17 Q. Okay. So there's a two-part question. The  
18 documents in front of you attached as Exhibit number  
19 2, it would be a correct statement saying you don't  
20 see the terms and conditions that would be associated  
21 with any of the account numbers?

22 A. Not anything more than what would be  
23 included on the second page which is a synopsis of the  
24 major terms and conditions.

25 But as far as the separate card member agreement,

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1 which is what we usually refer to it as, no, we don't  
2 have that.

3 Q. When you say "second page," you're referring  
4 to the second page on each periodic statement?

5 A. Yes. I'm sorry. I should have been more  
6 specific. Bank of America makes a habit of providing  
7 a second page to most statements which will indicate  
8 some of the terms and conditions for the account.

9 Q. Understood. So aside from reviewing Exhibit  
10 number 2 that's in front of you, you've had an  
11 opportunity to go back and review CACH's internal  
12 records on certain account notes and other various  
13 data that may not be present in front of you in  
14 Exhibit number 2, correct?

15 A. Correct.

16 Q. And based on your review of that, were you  
17 able to find the existence of a terms and conditions  
18 page or pages?

19 A. Not that I saw on this particular account.

20 Q. Okay. Do you have any idea if CACH has  
21 requested that from FIA or any of its affiliates?

22 A. I didn't see it listed, and that's all I can  
23 really say. I don't know why it wasn't listed or if  
24 it wasn't listed or if it was requested or not. I  
25 can't speak to more than what I've reviewed on the

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1 account in our computer system.

2 Q. Okay. And I know this might be somewhat of  
3 a repetitive question, but there's a difference. You  
4 weren't able to find the terms and conditions page or  
5 pages that associated with this account from MBNA  
6 either, were you?

7 A. Not that I saw, no. I haven't seen a terms  
8 and conditions attached in our computer from MBNA or  
9 Bank of America.

10 Q. That would also include Fleet Bank?

11 A. Yes.

12 Q. Okay. All right. Let's go back to the  
13 complaint. We'll just do it as of now. So paragraph  
14 1 there's a statement in there, and I'm summarizing  
15 it, that the original creditor was MBNA America N.A.  
16 We asked questions about that a few minutes ago, if  
17 you recall. What's your basis for knowledge that  
18 that's correct?

19 A. It's through my training that I know that's  
20 correct. I haven't personally looked it up on the SCC  
21 Web site or the federal agency that tracks it, but I'm  
22 sure you can find it there as well, of the merger.

23 Q. Understand. So stepping aside from the  
24 merger -- and I take your word for it. I think you're  
25 more familiar than I am with the acquisition of Bank

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1 of America and how CACH gets its accounts.

2 But what I'm asking specifically is: What's your  
3 basis of knowledge that Mr. Hadsell had an account  
4 with MBNA?

5 A. With MBNA, I can't really speak to. I  
6 wasn't there when he personally requested a line of  
7 credit. It would have to be -- after the merger would  
8 be the only information that I would have, because  
9 I've never been trained by MBNA. As I stated, I never  
10 worked for them, so I wouldn't be able to testify to  
11 that one way or the other.

12 Q. Okay. And let me follow up with that. Do  
13 you have any documents, Exhibit number 1, I assume  
14 not, just the deposition notice, but specifically  
15 Exhibit number 2, that would support the fact of your  
16 belief that Mr. Hadsell had an account with MBNA?

17 A. Other than the fact that the account was  
18 open until 2011. But, I mean, I just want to see if  
19 the -- yeah, also the affidavit of sale, paragraph 3.

20 Q. Okay. So let's flip to that real quick.

21 Page 21?

22 A. That is correct. Sorry.

23 Q. All right. And what portion or portions are  
24 you referring to?

25 A. Paragraph 3 that FIA Card Services N.A. is a

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1 wholly unsubsidiary of Bank of America Corporation and  
2 its successor in interest to MBNA America N.A., Fleet  
3 Bank, parentheses (RI), and Bank of America National  
4 Association U.S.A.

5 Q. Okay. So your understanding of that  
6 paragraph is that FIA is telling us that they've  
7 acquired these three different companies, correct?

8 A. That is correct.

9 Q. So I think that goes back to support your  
10 prior testimony about this acquisition, correct?

11 A. Correct. I know through personal knowledge,  
12 but it's always nice when the document spells it out  
13 as well.

14 Q. I hear you. But my specific question is:  
15 Is there any documentation that exists, perhaps in  
16 Exhibit number 2, that would establish the fact that  
17 Mr. Hadsell had opened an account with MBNA?

18 A. Again, it's not speaking to how or when he  
19 requested the line of credit. And I really can't  
20 speak to what happened between MBNA and Mr. Hadsell  
21 before my company even took over the rights to the  
22 account. And FIA Card Services would be the extent of  
23 where my knowledge would reach. So anything that  
24 happened in MBNA I couldn't -- I'd be speculating, and  
25 that's not what I think you want me here for.



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1           Q.    No, sir, I don't want you to speculate. I  
2 know your attorney doesn't want you to speculate  
3 either.

4           So to kind of short circuit it, paragraph 1 in  
5 the complaint, page 3 of Exhibit number 2, the  
6 statement that the original creditor was MBNA America  
7 N.A., you don't know if that's correct?

8           A.    I can't speak to it one way or the other,  
9 so --

10          Q.    So the answer is you don't know?

11          A.    That would be the best answer I could give.

12          Q.    Is it possible that Mr. Hadsell opened the  
13 account with Fleet Bank instead?

14          A.    It's a possibility, because Fleet -- well, I  
15 don't want to call it a mess, because that's giving it  
16 the wrong context, because obviously it was  
17 unorganized. But Fleet sold off its asset to several  
18 different banks, is my understanding. I know Chase  
19 Manhattan picked up a portion of it. I've seen some  
20 portions were picked up by Bank of America.

21          So I can't really specify or speak with any  
22 certainty of what happened with Fleet either, so no.

23          Q.    So it's possible that Mr. Hadsell had opened  
24 up the account with Fleet Bank?

25          A.    Whether he did or didn't, I don't know.

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1           Q.    Okay. But at least you can testify to the  
2 fact that you have no way to tell if it were MBNA,  
3 Fleet Bank or somebody else?

4           A.    I wouldn't know the relationship between  
5 Fleet and MBNA, so I can't speak that part of their  
6 assets were sold off to MBNA or weren't, and part of  
7 that was Mr. Hadsell's account, and when MBNA merged  
8 with Bank of America it became the rights to it.

9           I really can't go off -- other than the  
10 information Bank of America/FIA Card Services provided  
11 to us about the origin of the account. Unfortunately  
12 since it was opened in 2004, it's beyond most  
13 retention periods as far as a signed request for a  
14 line of credit or other information regarding an  
15 application or agreement from -- whether it was Fleet  
16 or MBNA, to provide a line of credit to Mr. Hadsell.

17           So we're -- I don't have any reason to doubt Bank  
18 of America or FIA Card Services' word that -- and  
19 documentation that they took over the rights to this  
20 account, but I can't speak personally to it.

21           Q.    You don't know personally?

22           A.    Personally I don't know if it was Fleet or  
23 MBNA. I personally do know it was included in a batch  
24 sold from Bank of America/FIA to CACH.

25           Q.    Okay. All right. Going through the

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1 complaint, page 4, Exhibit number 2, I want to draw  
2 your attention to paragraph 5 of the complaint. In  
3 paragraph 5 -- we'll break it up a little bit. But  
4 the first sentence, if I could draw your attention to  
5 that, if you could read that. You don't have it read  
6 it out loud, just to yourself.

7 A. Yes, I've read it.

8 Q. Okay. And so if you need to take something  
9 else in conjunction with this so it's not out of  
10 context or something, please let me know. I'm not  
11 trying to hide the ball on you.

12 But the first half of that first sentence, to me  
13 it says that Mr. Hadsell had completed a credit card  
14 application with MBNA America N.A. Do you see that?

15 A. Yes, I do.

16 Q. What information do you have to believe that  
17 that's true?

18 A. Again, it goes back to what we were just  
19 talking about, that Bank of America presented  
20 themselves/FIA Card Services presented themselves that  
21 they were the correct owner of the account and that it  
22 was included in a batch that was sold to CACH. What  
23 happened between the merger of who Mr. Hadsell --  
24 sorry. I shouldn't have said "merger." Who  
25 Mr. Hadsell requested a line of credit from or the

1 agreement that he had with MBNA or Fleet, I can't  
2 speak to that.

3 Q. Okay. So would it be accurate saying that  
4 as of December 30, 2011, CACH didn't know if  
5 Mr. Hadsell had in fact filled out a credit card  
6 application with MBNA, correct?

7 A. Well, I prefer the term "line of credit" or  
8 "request for a line of credit," because an  
9 application, A, we don't know if it was signed, it was  
10 an actual hard copy piece of paper or if it was  
11 Internet or over the phone.

12 And also, those applications that we fill out by  
13 hand, that's not the actual agreement between the bank  
14 and the individual, that's just an individual  
15 requesting a line of credit. I could walk into a bank  
16 and fill out six applications for a line of credit,  
17 doesn't necessarily mean the bank is going to agree to  
18 give me a line of credit. So since there's no real  
19 agreement is why I don't like that term.

20 But as far as in this particular case goes, we  
21 don't know if it was a hard copy, Internet or what.  
22 There was an account that was established. It was  
23 over a period of time that he had this. Almost six  
24 years it looks like. If someone is receiving  
25 statements for an inaccurate account, you think they

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1       could have said something.

2               Q.     Well, perhaps and perhaps not. I'm sure  
3       we'll be able to clarify some of that later on. But  
4       my question is specifically as to the credit card  
5       application that's referenced in the paragraph 5. And  
6       if I understand your testimony correctly, you have no  
7       idea what or if there was even an application filled  
8       out.

9               MS. STRICKLER: I'm just going to object.  
10      That mischaracterizes the prior testimony. He's  
11      already answered the question. You can feel free to  
12      answer the question again if you'd like, but --

13              THE WITNESS: Why don't you repeat your  
14      question and I'll give you an answer.

15              MR. SWIGART: I probably wouldn't be able  
16      to. I'm going to have it read back.

17                               (Record read)

18              THE WITNESS: Yes, I guess that would be --  
19      the closest answer would be correct. But as I already  
20      stated, we don't know if it was a hard copy  
21      application, Internet application, which then it's an  
22      individual speaking to a computer. There wouldn't be  
23      anything printed out. A telephone, when those  
24      applications are available, we can usually get them,  
25      but they look different.

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1 obtain. So if Mr. Hadsell kept it back in 2004, which  
2 most people don't, we would have it. The bank, I  
3 would hope, have it. But by the time we are pursuing  
4 in this action, we didn't have the card member  
5 agreement that I recall.

6 Q. Right. And I know we always play this game  
7 when we do our depositions, and I understand you're  
8 testifying generally as to your experience and banking  
9 and at CACH and your training and experience that  
10 you've had with FIA and the related entities, Bank of  
11 America. But you can't testify with certainty that  
12 the actual terms and conditions that existed with this  
13 account when it was opened, correct?

14 A. It would be the first account without it  
15 that I've ever seen, and but the answer would be no.

16 Q. Yes, sir. Understood. And you were  
17 testifying a moment ago as to the general customs and  
18 practices of FIA based on your training going through  
19 their -- spending some time at their organization and  
20 receiving training. But I think, if I recall from  
21 your previous testimony in other depositions, you've  
22 never received any training at MBNA, correct?

23 A. No, because -- well, as I said, they don't  
24 exist anymore, and it wouldn't be -- well, it wouldn't  
25 be possible, first of all. And five years ago when I

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1 started with the company, if MBNA was still around, it  
2 wouldn't have been a good return on investment for us  
3 to send an individual to be trained by them if we  
4 weren't buying paper from them.

5 Q. And the same holds true for Fleet Bank?

6 A. That would be true.

7 Q. So you can't testify with any level of  
8 certainty as to if terms and conditions sheets were  
9 sent out by MBNA to Mr. Hadsell at the inception of  
10 this account?

11 MS. STRICKLER: I'm going to object based on  
12 relevance on this entire line of questioning, because  
13 it has nothing to do with this lawsuit. But continue.

14 THE WITNESS: Short answer would be no.

15 BY MR. SWIGART:

16 Q. Understood. Now, let's -- we're almost done  
17 here. Let's talk about this breach of contract claim.

18 A. Go ahead.

19 Q. Is the breach of contract claim based on a  
20 breach of the terms and conditions of the account?

21 MS. STRICKLER: I'm going to object again  
22 based on relevance, but continue.

23 THE WITNESS: There would have been a breach  
24 of contract based on the existence of the account.

25 The terms and conditions we don't have, as we've -- I

1 think we've beaten that horse just about to death.

2 BY MR. SWIGART:

3 Q. Yes, sir.

4 A. But every time you swipe a credit card is  
5 acceptance of terms and conditions. To swipe a credit  
6 card without being aware of what those terms are,  
7 that's the credit line holder's responsibility. So  
8 there would have been a breach of contract even if he  
9 had just swiped the card once in a six-year period,  
10 because that would be acceptance of the terms and  
11 conditions, which as I stated earlier, I have no  
12 reason to believe that terms and conditions don't  
13 exist. We just don't have them to offer. That's what  
14 it would have been based off of, would be the breach  
15 of contract claim.

16 Q. Yes, sir. At the time the state court  
17 complaint was filed, did CACH have any knowledge if  
18 Mr. Hadsell had swiped that card, if he even had a  
19 card?

20 A. Well, he had a card based on the statements  
21 that we --

22 MS. STRICKLER: I'm going to lodge another  
23 objection based on relevance.

24 MR. SWIGART: Want a standing objection  
25 to --



1 MS. STRICKLER: I'll take a standing  
2 objection, because you're analyzing the state  
3 complaint which has nothing to do with the complaint  
4 in the federal case. You don't have any of your  
5 account stated claims in this particular case.

6 MR. SWIGART: Okay. Understood.

7 THE WITNESS: What I can speak to is  
8 Mr. Hadsell was sent statements. If they were  
9 inaccurate, he had a responsibility to dispute them in  
10 writing, with the bank preferably. Obviously he could  
11 dispute him on the phone. But to protect his rights,  
12 it would have been in writing.

13 And yeah, there are charges, so that would show  
14 that he did swipe the card on the statements that we  
15 provided.

16 BY MR. SWIGART:

17 Q. But you don't have personal knowledge if he  
18 actually swiped the card, you're reading the account  
19 statements?

20 A. No. That's something I'm perfectly happy to  
21 say. I wasn't personally with him when he was doing  
22 his grocery shopping or buying gas or whatever.

23 Q. All right. Fair enough. Fair enough.  
24 Okay. And let's scroll through that whole account  
25 stated thing, which is next. Been down that road

1 before.

2 So the documents in front of you, Exhibit number  
3 2 -- if there's other documents that you need to  
4 reference that aren't here, let me know. But what  
5 documents are supporting that account stated?

6 MS. STRICKLER: I'm going to object. It's a  
7 legal conclusion. He's not an attorney.

8 MR. SWIGART: Okay.

9 THE WITNESS: Yes, as you said, we've gone  
10 down this road before.

11 BY MR. SWIGART:

12 Q. Right.

13 A. My elementary understanding of what an  
14 account stated would be is, the account was opened for  
15 a period of time, both parties were aware of the  
16 account, that would establish it, and that's kind of  
17 where it ends for the most part.

18 Q. When you say "both parties," you're talking  
19 about Mr. Hadsell, and who is the other?

20 A. Yes, Mr. Hadsell and the bank that was  
21 offering the line of credit. So initially that would  
22 have been MBNA, then it would have been FIA Card  
23 Services/Bank of America, and then -- well, it  
24 wouldn't have been an open line of credit once it was  
25 charged off and sold to us. But that's where the

1 account stated would have come from. Since CACH is  
2 stepping into the shoes, we have the same rights as  
3 Bank of America, FIA. Eventually it would have turned  
4 into CACH and Mr. Hadsell, that there was the account  
5 stated.

6 Q. Understood. Okay. How about the claim for  
7 ten percent interest from March 8 of 2011, do you see  
8 that?

9 A. Yes, I do.

10 Q. Where did the ten percent come from?

11 A. My understanding is that's state statutory  
12 in California. May be wrong, but that's my  
13 understanding.

14 Q. Okay. I'm sure your attorney -- I'm not  
15 going to ask you what the law is here in California.  
16 I'm looking for a factual basis. As corollary to  
17 that, looking at the loan schedule on page 27, Exhibit  
18 number 2, is that in front of you, sir?

19 A. Yes, it is.

20 Q. There's a column that says "Interest rate"  
21 and there's a number, says "8.9." Do you see that?

22 A. Yes, I do.

23 Q. What does that represent?

24 A. That would represent the interest rate that  
25 was on the account at the time of charge-off.

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Hadsell v. Mandarin Law Group, LLC

1 Q. So at the time CACH acquired the account the  
2 interest rate was 8.9?

3 A. That is correct.

4 Q. Okay. I won't make you look it up. But if  
5 my review of the records are correct, and correct me  
6 if I'm wrong, CACH acquired the account February 9,  
7 2011. I get that from page 21, Exhibit number 2,  
8 paragraph 4C.

9 A. Yes. I don't see -- the placement date  
10 wasn't actually until February 15 which would have  
11 been the date it was placed with our affiliate  
12 attorney network, and the bill of sale is dated --  
13 execution date of February 14, 2011.

14 Q. Okay. All right.

15 A. So as I was touching on earlier, it's all  
16 around the same time period.

17 Q. Okay. All right. Just to go through some  
18 of the other documents that you've produced in  
19 discovery, if we can go back to the page 21, because  
20 you have a number 2.

21 A. Yes.

22 Q. Reading through this document -- I think  
23 we've discussed this before on another date -- there's  
24 three account numbers on this document. Do you see  
25 that, sir?

1 A. Yes, I do.

2 Q. How do those relate to Mr. Hadsell, if at  
3 all?

4 A. Those are the account numbers that  
5 Mr. Hadsell had through the life of the account. I  
6 think I touched on it a little bit earlier when we  
7 were going over the information that would be provided  
8 in that loan schedule. An individual's account number  
9 can change. As much as we like to think that it never  
10 does, it can. That can be for many reasons. Most  
11 banks, including Bank of America, have the policy that  
12 when they merge with another financial institution,  
13 another bank, they'll change the account number just  
14 to discriminate between what happened before them,  
15 what happened after them.

16 If you charge off the account, they change the  
17 account number. Or I should say if they charge off  
18 the account, nonpayment, they'll change the account  
19 number. If you reported the card stolen, they would  
20 change the account number. It's still tracked through  
21 the individual's social security number, but what  
22 shows up on the piece of plastic or account statement,  
23 that can change.

24 Q. All right. Are there any other documents  
25 aside from page 21, Exhibit number 2, that have any

1 reference to the account numbers ending in 9340 or the  
2 7588? Let me just -- you might want to double-check.  
3 I looked through the account statements. I just saw  
4 the 1158, and I might be wrong.

5 A. On the loan schedule the account number  
6 ending in 9340 is listed as well as the account number  
7 ending in 1158, which the loan schedule comes from  
8 a -- not going to say a different source, but a  
9 different arm of Bank of America.

10 As I touched on earlier, the loan schedule is  
11 strictly computer speaking to computer. The affidavit  
12 of sale is an individual actually going back and  
13 looking at the account. So it's coming from a  
14 different -- yeah, I guess "source" is the best word  
15 at that point -- a different source, and that's how we  
16 can -- that's why we use it to verify the information  
17 against the loan schedule.

18 So those two listed, the statements, they're  
19 talking about 1158. But as I stated earlier, this was  
20 an account that was open for six years, or almost six  
21 years, and we've only got a snapshot of the  
22 statements. I mean, we do have plenty of statements.  
23 But compared to what were created over the life of the  
24 account, there's more.

25 So I can't speak beyond the affidavit of sale and

1 the loan schedule statements that we may or may not  
2 show all the account numbers unless it was around that  
3 time period that something was merged, card was stolen  
4 or charged off. We wouldn't see a different account  
5 number.

6 **Q. Okay. But no account statements with the**  
7 **7588 number?**

8 A. Not that I recall. If you're saying you  
9 haven't seen it either in the statements, then that  
10 would be my best explanation, is it just wasn't -- the  
11 statements that we were provided didn't overlap.

12 **Q. Or a -- the 7588 account number didn't show**  
13 **up in the loan schedule?**

14 A. I didn't go all the way. No. My only  
15 explanation for that is that the 7588 must have been  
16 the MBNA account number, because if you look at -- the  
17 1158 is obviously a Bank of America, because it's on  
18 the WorldPoints Bank of America as the remit address,  
19 and the -- sorry. 9340, that's what I'm looking for.  
20 That would be the charge-off account number which is  
21 listed on the loan schedule.

22 The number that you're looking for, that's more  
23 evidence that it happened before we were able to get  
24 the statements.

25 **Q. Is it possible that the 7588 is a completely**

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## DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury  
that I have read the entire transcript of  
my Deposition taken in the captioned matter  
or the same has been read to me, and  
the same is true and accurate, save and  
except for changes and/or corrections, if  
any, as indicated by me on the DEPOSITION  
ERRATA SHEET hereof, with the understanding  
that I offer these changes as if still under  
oath.

Signed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
MAGIC WEST



## REPORTER'S CERTIFICATION

I, Angie Messenger, a certified shorthand reporter, in and for the State of California, Certificate No. 11742, do hereby certify:

That the foregoing proceedings were reported by me stenographically and later transcribed into typewriting under my direction; that the foregoing is a true record of the proceedings taken at that time.

IN WITNESS WHEREOF, I have subscribed my name this 8th day of October, 2012.



*Angie Messenger*  
Angie Messenger, CSR No. 11742